

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOANN R. KOZAK

Plaintiff,

**THIRD AMENDED
CASE MANAGEMENT ORDER**

v.

1:16-cv-00943(JLV)(JJM)

OFFICE DEPOT, INC.,

Defendant.

In accordance with today's telephonic conference, plaintiff's motion [75] to amend the deadlines of the Second Amended Case Management Order is granted, but no further extensions will be granted. The Second Amended Case Management Order [74] is amended as follows:

1. All fact discovery shall be completed by no later than **August 5, 2021**.

If discovery disputes arise, the parties shall initially advise me of the dispute via letter or e-mail (copying opposing counsel). Upon review of the letter, I will generally schedule a conference with the parties to attempt to resolve the issue informally. If the dispute is not resolved informally, the parties will be given the opportunity to file a formal motion. This informal discovery dispute resolution process is not expedited motion practice. Therefore, informal submissions should provide a brief overview of the issue with supporting documentation and the parties' positions. Parties do not waive arguments by failing to raise them in their informal submissions. However, utilizing this informal discovery process does not act to automatically toll proceedings, including Case Management Order deadlines, discovery deadlines, or scheduled

depositions or inspections. For any disputes that require prompt attention, the parties should proceed by motion.

2. Each party intending to offer the testimony of an expert in connection with any issue as to which it bears the burden of proof (including claims, counterclaims, cross-claims or affirmative defenses) shall identify such expert(s) and provide reports pursuant to Rule 26 by no later than **September 3, 2021**. Each party intending to offer other expert testimony (*i.e.*, testimony in response to expert testimony previously designated by an opposing party, or in support of an issue as to which the offering party does not bear the burden of proof), shall identify such expert(s) and provide reports pursuant to Rule 26 by no later than **October 1, 2021**.

3. All expert depositions shall be completed by no later than **November 1, 2021**.

4. Pretrial dispositive motions, if any, shall be filed by no later than **November 29, 2021**. Such motions shall be made returnable before the Magistrate Judge. The parties are directed to provide a courtesy copy of all motion papers to the Court.

5. If no pretrial dispositive motions are filed, the parties shall contact Judge Vilardo's chambers by **December 3, 2021** to schedule a trial date.

6. Mediation sessions may continue, in accordance with Section 5.12 of the ADR Plan, until **November 29, 2021**. The continuation of mediation sessions shall not delay or defer other dates set forth in this Case Management Order.

No extension of the above deadlines will be granted.

SO ORDERED.

Dated: March 30, 2021

/s/Jeremiah J. McCarthy
JEREMIAH J. MCCARTHY
United States Magistrate Judge